

REMARKS

The Office has required restriction of the above-identified application as follows:

- I. Claims 1-18, in part, drawn to processes of making compounds of formula (1), wherein the stating materials of trialkyl-, trialkenyl- or triarylphosphine represents compound of formula (II) thereof, and the stating materials of monounsaturated or polyunsaturated electrophile represents compounds of formula (III) or (IV) thereof, their method of use. If this group is elected, applicants are requested to elect a single species for the search purpose.
- II. Claims 1-18, in part, drawn to processes of making, containing compounds of formula (1) not embraced in Group I, and their methods of use. If this group is elected, applicants are requested to elect a single species for the search purpose. This group is subject further restriction if it is elected.

Applicants have elected, with traverse Group I claims 1-18, in part, drawn to processes of making compounds of formula (1), wherein the stating materials of trialkyl-, trialkenyl- or triarylphosphine represents compound of formula (II) thereof, and the stating materials of monounsaturated or polyunsaturated electrophile represents compounds of formula (III) or (IV) thereof, their method of use.

The Office, citing PCT rules 13-1 and 13-2, contends that the species lack unity of invention because they “lack a significant structural element qualifying as the special technical feature that defines a contribution over the prior art, see Paust et al. U.S. 5,689,022, column 6.” (Page 5 of the Office Action)

Applicants submit that this is a conclusory statement not supported by the evidence put forth in the Office Action. Since the Office has failed to articulate a reason for its conclusion, applicants submit that the lack of unity requirement is improper.

In addition, applicants note that the international search authority found lack of unity only for original claim 14 but not for the species. In light of PCT Article 27(1) and 37 CFR § 145 and § 1.499 it is apparent that when the international preliminary authority finds no objection based on lack of unity of invention, there is a special burden on this Office to explain why its conclusions are diametrically opposed to those of the international preliminary authority, as approved by treaty. Applicants submit that the Office has failed to meet this burden.

Finally, with respect to the elected species, Applicants respectfully submit that, should the elected species be found allowable, the Office should expand its search to the non-elected species.

For the reasons presented above, Applicants submit that the Office has failed to meet the burden necessary in order to sustain the Restriction and Election of Species Requirement. Therefore, withdrawal of the Restriction and Election of Species Requirements is respectfully requested.

Applicants submit this application is now in condition for examination on the merits and early notification of such action is earnestly solicited.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 03-2775, under Order No. 12810-00254-US1 from which the undersigned is authorized to draw.

Dated: July 1, 2008

Respectfully submitted,
Electronic signature: /Donald K. Drummond,
Ph. D./
Donald K. Drummond, Ph.D.
Registration No.: 52,834
CONNOLLY BOVE LODGE & HUTZ LLP
1875 Eye Street, NW, Suite 1100
Washington D.C. 20006
(202) 331-7111
(202) 293-6229 (Fax)
Attorney for Applicant